DRAFT 2007-LAz-21:
Tax on Short-term Heavy Equipment Rentals.

BILL ANALYSIS

Committee:	Revenue Laws	**Date:**	May 6, 2008
Introduced by:		**Summary by:**	Martha Walston
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SUMMARY: The draft repeals the property tax on heavy equipment owned and offered for short-term rental or lease by a person whose principal business is the short-term lease or rental of heavy equipment at retail, and enacts in its place local option county and city gross receipts taxes on the short-term heavy equipment rentals.

CURRENT LAW: A business that rents out heavy equipment such as earthmoving and lifting equipment must pay property tax on the equipment. Like other personal property, the value of the heavy equipment is determined as of January 1 each year and is subject to property tax in the county or city where the equipment is located on that date. Some owners of heavy equipment rental businesses have expressed the following concerns about the unfairness and administrative inconsistencies of levying and collecting property tax on this heavy equipment:

- Some businesses do not know the location of their heavy equipment on January 1
- Some businesses, whose heavy equipment is not rented on January 1, move the equipment to a county with a lower property tax rate in order to pay lower property taxes.
- Some businesses erroneously claim their heavy equipment as inventory held for sale, and therefore, not subject to property taxes.

During the 2007 Session, House Bill 1895 was introduced in an attempt to alleviate some of these concerns and to provide a more level "playing field" for companies that rent out heavy equipment. HB 1895 was supported by several large companies whose principal business is the rental and leasing of heavy equipment. HB 1895, as introduced, authorized counties and cities to levy a privilege tax on certain businesses that rent out heavy equipment in lieu of paying property tax on the heavy equipment.[1] Under that version, the rate of the privilege tax could not exceed .0.75% and was applied to the gross receipts from the heavy equipment rentals. HB 1895 was given a favorable report in the House Committee on Commerce, Small Business and Entrepreneurship and re-referred to House Finance. During the final full week of the Session, the House Finance Committee gave a favorable report to an amended version of the bill that deleted all provisions of the first edition and replaced it with language authorizing the Revenue Laws Study Committee to study the issue of whether to impose a gross receipts tax on heavy equipment property rentals in lieu of a property tax on the equipment.

BILL ANALYSIS: The draft would exclude from property tax certain heavy equipment that is offered at retail for short-term lease or rental, if the heavy equipment is leased or rented out by a person whose principal business is the short-term[2] lease or rental of heavy equipment. The draft replaces the property

[1] The businesses that were subject to the tax are businesses engaged in renting construction, mining, forestry, commercial and industrial equipment as defined in the North American Industry Classification System(NAICS) adopted by the US Office of Management and Budget.
[2] A short-term lease is a lease or rental is for a period of less than 365 days. (G.S. 105-187.1). Under current law, a long-term lease agreement generally requires the lessee to list and pay the property taxes due on the heavy equipment.

tax on the heavy equipment with a local option gross receipts tax. This draft is similar to the legislation enacted in 2000 that repealed the property tax on vehicles owned and offered for short-term rental by persons engaged in the business of renting vehicles to the public and replaced the property tax with a local option county and city gross receipts taxes on short-term vehicles. (G.S. 153A-156 and G.S. 160A-215.1)

<u>What type of heavy equipment is subject to the tax?</u>

The tax applies to the gross receipts from the short-term rental or lease of the following heavy equipment:

- Earthmoving or construction equipment that meets any of the following requirements:
  a. It is a self-propelled vehicle that is not designed to be driven on a highway.
  b. It is industrial lift equipment, industrial material handling equipment, industrial electrical generation equipment, or similar piece of industrial equipment.
  c. It is an attachment or an accessory for a vehicle or piece of equipment described in a. or b.

<u>What is the rate to be applied to the gross receipts from the short-term lease or rental of heavy equipment?</u>

- The rate for the counties will be 1.1% and the rate for the cities will be 0.65% for a combined rate of 1.75% if the heavy equipment rental business is located in a city.

<u>How and when will the gross receipts tax be paid?</u>

- The gross receipts tax will be paid quarterly and will be due on the last day of the month following the end of the quarter. The tax is paid to the city finance officer and the county tax collector in the county or city in which the business renting or leasing the equipment is located. The tax is intended to be added to the amount charged for the rental and paid to the heavy equipment business by the lessee.

<u>How will the gross receipts tax be administered?</u>

- The tax will be administered in the same manner as leased or rented personal property under the sales and use tax statutes. The equipment will be taxed by the city and county where the business renting or leasing the equipment is located.

EFFECTIVE DATE: A tax imposed under this act becomes effective on the date se in the resolution imposing the tax. The date must be the first day of a calendar quarter and may not be sooner than the first day of the calendar quarter tat begins at least two months after the date the resolution is adopted.

OTHER STATES: Virginia authorizes a county or city to levy a tax not to exceed 1% on the gross proceeds from a short term rental business. Short-term rental means ninety-two consecutive days or less. The tax is collected from the lessee of the rental property and the lessor must submit a quarterly return. (G.S. 58.1-3510.1(B). Colorado also authorizes counties to impose a tax not to exceed 1% on the rental of personal property for 30 days or less (G.S. 30-11-107.7). South Carolina imposes a 3% surcharge on a heavy equipment rental contract for a period of thirty-one days or less. The surcharge is computed on the total amount stated in the rental contract and is used by the rental company for reimbursement of the amount of personal property taxes paid on the equipment.

-SMLA